

## **Part 2**

### **General Provisions Applicable to Courts and Judges**

#### **78A-2-201 Powers of every court.**

Every court has authority to:

- (1) preserve and enforce order in its immediate presence;
- (2) enforce order in the proceedings before it, or before a person authorized to conduct a judicial investigation under its authority;
- (3) provide for the orderly conduct of proceedings before it or its officers;
- (4) compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in a pending action or proceeding;
- (5) control in furtherance of justice the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it in every matter;
- (6) compel the attendance of persons to testify in a pending action or proceeding, as provided by law;
- (7) administer oaths in a pending action or proceeding, and in all other cases where necessary in the exercise of its authority and duties;
- (8) amend and control its process and orders to conform to law and justice;
- (9) devise and make new process and forms of proceedings, consistent with law, necessary to carry into effect its authority and jurisdiction; and
- (10) enforce rules of the Supreme Court and Judicial Council.

Renumbered and Amended by Chapter 3, 2008 General Session

#### **78A-2-202 Courts of justice -- Authority.**

- (1) All courts of justice have the authority necessary to exercise their jurisdiction.
- (2) If a procedure for an action is not established, a process may be adopted that conforms with the apparent intent of the statute or rule of procedure.

Renumbered and Amended by Chapter 3, 2008 General Session

#### **78A-2-203 Rules -- Right to make -- Limitation -- Security.**

- (1) Every court of record may make rules, not inconsistent with law, for its own government and the government of its officers; but such rules must neither impose any tax or charge upon any legal proceeding nor give any allowance to any officer for service.
- (2)
  - (a) The judicial council may provide, through the rules of judicial administration, for security in or about a courthouse or courtroom, or establish a secure area as prescribed in Section 76-8-311.1.
  - (b)
    - (i) If the council establishes a secure area under Subsection (2)(a), it shall provide a secure firearms storage area on site so that persons with lawfully carried firearms may store them while they are in the secure area.
    - (ii) The entity operating the facility with the secure area shall be responsible for the firearms while they are stored in the storage area referred to in Subsection (2)(b)(i).
    - (iii) The entity may not charge a fee to individuals for storage of their firearms under Subsection (2)(b)(i).

- (3)
- (a) Unless authorized by the rules of judicial administration, any person who knowingly or intentionally possesses a firearm, ammunition, or dangerous weapon within a secure area established by the judicial council under this section is guilty of a third degree felony.
  - (b) Any person is guilty of violating Section 76-10-306 who transports, possesses, distributes, or sells an explosive, chemical, or incendiary device, as defined by Section 76-10-306, within a secure area, established by the Judicial Council under this section.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-204 Judicial Council to approve court seals.**

The Judicial Council shall approve a seal for all courts of justice.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-205 When seal is affixed.**

The seal of the court need not be affixed to any document of the court, except to:

- (1) a writ;
- (2) a certificate of the probate of a will, or of appointment of an executor, administrator, or guardian; or
- (3) the authentication of:
  - (a) a copy of a record or document on file with the court; or
  - (b) the signature of an officer of the court.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-206 English language for proceedings.**

Judicial proceedings shall be conducted in the English language.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-207 Domestic relations cases -- Party designation.**

Parties in domestic relations cases, including divorce, annulment, property division, child custody, support, parent-time, adoption, and paternity, shall be designated as petitioner and respondent.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-208 Sittings of courts -- To be public -- Notice to public of recording -- Right to exclude in certain cases.**

- (1) The sittings of every court of justice are public, except as provided in Subsections (3) and (4).
- (2) The Judicial Council shall require that notice be given to the public that the proceedings are being recorded when an electronic or digital recording system is being used during court proceedings.
- (3) The court may, in its discretion, during the examination of a witness exclude any and all other witnesses in the proceedings.

- (4) In an action of divorce, criminal conversation, seduction, abortion, rape, or assault with intent to commit rape, the court may, in its discretion, exclude all persons who do not have a direct interest in the proceedings, except jurors, witnesses and officers of the court.

Amended by Chapter 126, 2016 General Session

**78A-2-209 Sheriff to supply court rooms when the county legislative body neglects.**

If suitable rooms for holding the district court and for chambers of the judge are not provided in the place appointed for holding court in any county, together with attendants, furniture, lights, and stationery sufficient for the transaction of business, the court or the judge may direct the sheriff to provide rooms, attendants, furniture, fuel, lights, and stationery. All expenses incurred, certified by the judge to be correct, are a charge against the county and shall be paid out of the county's general fund.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-210 Change of place of trial because of calamity.**

- (1) The presiding judge may order court proceedings to be held at another location within the jurisdiction if the presiding judge determines it is necessary because of:
- (a) war;
  - (b) insurrection;
  - (c) pestilence;
  - (d) public calamity or natural disaster; or
  - (e) destruction of or danger to the building in which court is held.
- (2) Any order to move court proceedings shall be reduced to writing and filed with the clerk of the court for publication.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-211 Court days.**

Courts of justice are open and judicial business may be transacted on any day, except as provided in Section 78A-2-212.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-212 Days on which court closed -- Exceptions.**

Judicial business on Sunday, on any day on which general election is held, or on any legal holiday, is limited to the following purposes:

- (1) to give, upon their request, instructions to a jury when deliberating on their verdict;
- (2) to receive a verdict or discharge a jury;
- (3) for the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature; and
- (4) judicial business not involving a trial or hearing unless the judge finds it necessary for the fair administration of justice.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-213 Proceedings unaffected by vacancy in office of judge.**

No proceeding in any court of justice is affected by a vacancy in the office of all or any of the judges, or by the failure of a term of a judge.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-214 Collection of accounts receivable.**

- (1) As used in this section:
  - (a) "Accounts receivable" means any amount due the state from an entity for which payment has not been received by the state agency that is servicing the debt.
  - (b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third party claims, sale of goods, sale of services, claims, and damages.
- (2) If the Department of Corrections does not have responsibility under Subsection 77-18-1(9) for collecting an account receivable and if the Office of State Debt Collection does not have responsibility under Subsection 63A-3-502(6), the district court shall collect the account receivable.
- (3)
  - (a) In the juvenile court, money collected by the court from past-due accounts receivable may be used to offset system, administrative, legal, and other costs of collection.
  - (b) The juvenile court shall allocate money collected above the cost of collection on a pro rata basis to the various revenue types that generated the accounts receivable.
- (4) The interest charge established by the Office of State Debt Collection under Subsection 63A-3-502(4)(g)(iii) may not be assessed on an account receivable subject to the postjudgment interest rate established by Section 15-1-4.

Amended by Chapter 79, 2011 General Session

**78A-2-215 Abbreviations and numerals.**

Common abbreviations may be used, and numbers may be expressed by customary figures or numerals in court documents.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-216 Fees for writ of garnishment -- Single or continuing.**

- (1) Any creditor who serves or causes to be served a writ of garnishment upon the garnishee shall pay to the garnishee:
  - (a) \$10 for a single garnishment; and
  - (b) \$25 for a continuing garnishment.
- (2) The creditor shall pay the fee directly to the garnishee.
- (3) If a plaintiff attempts to garnish the property of a person other than the defendant by serving a garnishment on a garnishee, that person may recover from the plaintiff an amount not to exceed \$1,000 if the person demonstrates to the court that the plaintiff failed to exercise reasonable diligence in determining that the person and defendant were the same individual.
- (4) The following factors may be taken into consideration by the court in determining whether the plaintiff exercised reasonable diligence in determining whether the person garnished and the defendant were the same individual:
  - (a) similarities between the person and the actual judgment debtor, including:
    - (i) the spelling of each person's name;

- (ii) addresses;
- (iii) physical descriptions;
- (iv) identifying information, including Social Security number or driver license number; and
- (v) family status;
- (b) whether previous contact was made to determine whether the person was the judgment debtor;
- (c) how the determination of who the judgment debtor was, was made; and
- (d) what information the plaintiff had access to or was provided with regarding the actual judgment debtor from all available sources.
- (5) An employer who receives a written request for verification of employment, which includes a copy of the judgment and judgment information statement, shall provide verification within 10 days. The response shall indicate whether or not the defendant identified in the documentation is a current employee.
- (6) A plaintiff is not liable for a violation of Subsection (3) regarding a wage garnishment if the plaintiff transmitted a written request for verification of employment, including a copy of the judgment and judgment information statement, to an employer and the employer did not respond.

Renumbered and Amended by Chapter 3, 2008 General Session  
Amended by Chapter 149, 2008 General Session

**78A-2-217 Electronic writing.**

- (1) Except as restricted by the Constitution of the United States or of this state, any writing required or permitted by this code to be filed with or prepared by a court may be filed or prepared in an electronic medium and by electronic transmission subject to the ability of the recipient to accept and process the electronic writing.
- (2) Any writing required to be signed that is filed with or prepared by a court in an electronic medium or by electronic transmission shall be signed by electronic signature in accordance with Title 46, Chapter 4, Uniform Electronic Transactions Act.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-218 Powers of every judicial officer -- Contempt.**

Every judicial officer has power:

- (1) to preserve and enforce order in his immediate presence, and in proceedings before him, when he is engaged in the performance of official duty;
- (2) to compel obedience to his lawful orders as provided by law;
- (3) to compel the attendance of persons to testify in a proceeding before him in the cases and manner provided by law;
- (4) to administer oaths to persons in a proceeding pending before him, and in all other cases where it may be necessary in the exercise of his powers and duties; and
- (5) punish for contempt as provided by law to enforce compliance with Subsections (1) through (4).

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-219 Powers of judge contradistinguished from court.**

A judge may exercise out of court all the powers expressly conferred upon a judge as contradistinguished from the court.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-220 Authority of magistrate.**

- (1) Except as otherwise provided by law, a magistrate as defined in Section 77-1-3 shall have the authority to:
  - (a) commit a person to incarceration prior to trial;
  - (b) set or deny bail under Section 77-20-1 and release upon the payment of bail and satisfaction of any other conditions of release;
  - (c) issue to any place in the state summonses and warrants of search and arrest and authorize administrative traffic checkpoints under Section 77-23-104;
  - (d) conduct an initial appearance;
  - (e) conduct arraignments;
  - (f) conduct a preliminary examination to determine probable cause;
  - (g) appoint attorneys and order recoupment of attorney fees;
  - (h) order the preparation of presentence investigations and reports;
  - (i) issue temporary orders as provided by rule of the Judicial Council; and
  - (j) perform any other act or function authorized by statute.
- (2) A judge of the justice court may exercise the authority of a magistrate specified in Subsection (1) with the following limitations:
  - (a) a judge of the justice court may conduct an initial appearance, preliminary examination, or arraignment as provided by rule of the Judicial Council; and
  - (b) a judge of the justice court may not set bail in a capital felony nor deny bail in any case.

Amended by Chapter 245, 2013 General Session

**78A-2-221 Justices and judges -- Limitations during terms.**

A justice or judge of any court of record may not, during his term of office:

- (1) practice law or have a partner engaged in the practice of law;
- (2) hold office in or make any contribution to any political party or organization engaged in political activity; or
- (3) use, in his efforts to obtain or retain judicial office, any political party designation, reference, or description.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-222 Disqualification for interest or relation to parties.**

- (1) Except by consent of all parties, a justice, judge, or justice court judge may not sit or act in any action or proceeding:
  - (a) to which he is a party, or in which he is interested;
  - (b) when he is related to either party by consanguinity or affinity within the third degree, computed according to the rules of the common law; or
  - (c) when he has been attorney or counsel for either party in the action or proceeding.
- (2) The provisions of this section do not apply to the arrangement of the calendar or the regulation of the order of business, nor to the power of transferring the action or proceeding to some other court.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-223 Decisions to be rendered within two months -- Procedures for decisions not rendered.**

- (1) A trial court judge shall decide all matters submitted for final determination within two months of submission, unless circumstances causing the delay are beyond the judge's personal control.
- (2) The Judicial Council shall establish reporting procedures for all matters not decided within two months of final submission.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-224 Bases for certain decisions limited.**

- (1) Except as provided in Subsection (2), no court may rule on the custody, placement, including foster placement, or other disposition alternative for a minor, or the termination of parental rights, based on the fact that a parent or guardian of the minor lawfully does one or more of the following:
  - (a) legally possesses or uses a firearm or other weapon;
  - (b) espouses particular religious beliefs; or
  - (c) schools the minor or other minors outside the public education system or is otherwise sympathetic to schooling a minor outside the public education system.
- (2) Subsection (1) does not prohibit a ruling based on the compatibility of a minor with a particular custody, placement, or other disposition alternative as determined by the presence of any of the factors in Subsections (1)(a) through (1)(c).

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-225 Judge of court of record -- Service in other division or court.**

A judge of a court of record may serve temporarily as a judge in another geographic division or in another court of record, in accordance with the Utah Constitution and the rules of the Judicial Council.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-226 Repeated application for orders forbidden -- Disobedience -- Contempt.**

- (1) If an application for an order, made to a judge of a court in which the action or proceeding is pending, is refused in whole or in part or is granted conditionally, a subsequent application for the same order may not be made to any other judge, except of a higher court.
- (2) This section does not apply to motions refused for any informality in the papers or proceedings necessary to obtain the order, or to motions refused with liberty to renew them.
- (3) A notice of appeal for a trial de novo is not a subsequent application for the same order.
- (4) A violation of Subsection (1) may be punished by contempt and any subsequent order may be revoked by the issuing judge or vacated by a judge of the court in which the action or proceeding is pending.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-2-229 Documents provided to pro se litigants.**

- (1) Documents classified as private, protected, or sealed by court rule and are provided to a pro se litigant in the course of an action or in accordance with Subsection 63G-2-202(7) may not

be distributed, released, or displayed to any other person except the court, the other party and their counsel, or any other person who may be authorized by the court to inspect the documents.

- (2) Pro se litigants shall be advised by the court that private, protected, or sealed documents received by the party that the party would not have received but for the litigation and pro se representation are confidential and may not be distributed outside the parties or the court without prior authorization by the court. A court's failure to give this notice may not be used as a defense to prosecution for a violation of the disclosure rule.
- (3) Violation of this section is:
  - (a) punishable by contempt if distribution or release occurs before a final determination is made by the court and the court still has jurisdiction over the parties; or
  - (b) a class B misdemeanor if the litigation has been concluded and the court no longer has jurisdiction over the parties.

Enacted by Chapter 247, 2010 General Session

**78A-2-230 References to court pleadings and other papers.**

Any reference in this code to a petition, complaint, or other court record shall be considered to include any cover sheet or accompanying document required by statute or court rule to be filed with the petition, complaint, or other record.

Enacted by Chapter 34, 2010 General Session